

## Bureau of Indian Affairs, Interior

## § 83.46

(b) AS-IA will notify the petitioner and those listed in § 83.22(d) of the date he/she begins consideration.

### **§ 83.41 What will the Assistant Secretary consider in his/her review?**

(a) AS-IA will consider all the evidence in the administrative record, including any comments and responses on the proposed finding and any the hearing transcript and recommended decision.

(b) AS-IA will not consider comments submitted after the close of the comment period in § 83.35, the response period in § 83.36 or § 83.37, or the hearing election period in § 83.38.

### **§ 83.42 When will the Assistant Secretary issue a final determination?**

(a) AS-IA will issue a final determination and publish a notice of availability in the FEDERAL REGISTER within 90 days from the date on which he/she begins its review. AS-IA will also

(1) Provide copies of the final determination to the petitioner and those listed in § 83.22(d); and

(2) Make copies of the final determination available to others upon written request.

(b) AS-IA will strive to limit the final determination and any reports to no more than 100 pages, cumulatively, excluding source documents.

### **§ 83.43 How will the Assistant Secretary make the determination decision?**

(a) AS-IA will issue a final determination granting acknowledgment as a federally recognized Indian tribe when AS-IA finds that the petitioner meets the Governing Document (§ 83.11(d)), Descent (§ 83.11(e)), Unique Membership (§ 83.11(f)), and Congressional Termination (§ 83.11(g)) Criteria and:

(1) Demonstrates previous Federal acknowledgment under § 83.12(a) and meets the criteria in § 83.12(b); or

(2) Meets the Indian Entity Identification (§ 83.11(a)), Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria.

(b) AS-IA will issue a final determination declining acknowledgement as a federally recognized Indian tribe when he/she finds that the petitioner:

(1) In Phase I, does not meet the Governing Document (§ 83.11(d)), Descent (§ 83.11(e)), Unique Membership (§ 83.11(f)), or Congressional Termination (§ 83.11(g)) Criteria; or

(2) In Phase II, does not:

(i) Demonstrate previous Federal acknowledgment under § 83.12(a) and meet the criteria in § 83.12(b); or

(ii) Meet the Indian Entity Identification (§ 83.11(a)), Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria.

### **§ 83.44 Is the Assistant Secretary's final determination final for the Department?**

Yes. The AS-IA's final determination is final for the Department and is a final agency action under the Administrative Procedure Act (5 U.S.C. 704).

### **§ 83.45 When will the final determination be effective?**

The final determination will become immediately effective. Within 10 business days of the decision, the Assistant Secretary will submit to the FEDERAL REGISTER a notice of the final determination to be published in the FEDERAL REGISTER.

### **§ 83.46 How is a petitioner with a positive final determination integrated into Federal programs as a federally recognized Indian tribe?**

(a) Upon acknowledgment, the petitioner will be a federally recognized Indian tribe entitled to the privileges and immunities available to federally recognized Indian tribes. It will be included on the list of federally recognized Indian tribes in the next scheduled publication.

(b) Within six months after acknowledgment, the appropriate Bureau of Indian Affairs Regional Office will consult with the newly federally recognized Indian tribe and develop, in cooperation with the federally recognized Indian tribe, a determination of needs and a recommended budget. These will be forwarded to the Assistant Secretary. The recommended budget will then be considered with other recommendations by the Assistant Secretary in the usual budget request process.

(c) While the newly federally acknowledged Indian tribe is eligible for